

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

TERESA M. MINOR,

:

Case No. 3:07-cv-011

Plaintiff,

-vs-

District Judge Thomas M. Rose
Chief Magistrate Judge Michael R. Merz

JO ANNE B. BARNHART,
COMMISSIONER OF
SOCIAL SECURITY¹,

Defendants.

:

ORDER

This matter is before the Court on the parties' Joint Motion to Award Attorney Fees Under the Equal Access to Justice Act (EAJA). (Doc. 16).

The parties have jointly moved for an award of fees under the EAJA, 28 U.S.C. § 2412, in the amount of \$3,200.00. The parties agree that any fees paid pursuant to the EAJA belong to Plaintiff and not to her attorney, but that pursuant to an assignment of fees, any award under the EAJA be paid directly to Plaintiff's attorney. (Doc. 16, Attachment thereto).

An award of fees may be made under the EAJA in a social security disability action such as the present case. *Jankovich v. Bowen*, 868 F.2d 867 (6th Cir. 1989). The parties have essentially stipulated that in addition to filing a timely application, Plaintiff is a prevailing party,

¹ The Court notes that on February 12, 2007, Michael J. Astrue became the Commissioner of Social Security. See, <http://www.ssa.gov/pressoffice/pr/astrue-pr.htm>. In accordance with Fed.R.Civ.P. 25(d)(1) and the last sentence of 42 U.S.C. § 405(g), Michael J. Astrue is automatically substituted as Defendant in this action. However, in accordance with the practice of this Court, the caption remains the same.

the Commissioner's position was without substantial justification and there are no special circumstances which would warrant a denial of fees. See *Willis v. Sullivan*, 931 F.2d 390, 399 (6th Cir. 1991).

The parties Joint Motion to Award Attorney Fees Under the Equal Access to Justice Act (EAJA) in the amount of \$3,200.00, payable to Plaintiff's counsel, (Doc. 16), is granted. The Clerk shall enter judgment accordingly.

IT IS SO ORDERED.

Date :January 2, 2008

s/THOMAS M. ROSE

Thomas M. Rose
UNITED STATES DISTRICT JUDGE